

-----Original Message-----

From: FNachman@dhhs.state.nh.us [mailto:FNachman@dhhs.state.nh.us]

Sent: Monday, November 01, 2010 10:17 AM

To: datasearch@earthlink.net

Subject: Re: Public Records Request - New Hampshire

Dear Mr. Kramer,

I have checked again with our Commissioner's office and there is no record of a request from Senator Grassley or his office. We have no record meeting your request and therefore must deny your request.

Sincerely

Frank D. Nachman, Esq.
Chief Legal Counsel
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
(603) 271-2892

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<datasearch@earthlink
.net>

10/29/2010 03:48 PM Please respond to
 <datasearch@earthlink.net>

To <FNachman@dhhs.state.nh.us>

cc

Subject Re: Public Records Request - New Hampshire

Mr. Nachman?

-----Original Message-----

From: FNachman@dhhs.state.nh.us [mailto:FNachman@dhhs.state.nh.us]

Sent: Monday, October 25, 2010 9:11 AM

To: datasearch@earthlink.net

Subject: RE: Public Records Request - New Hampshire

Mr. Kramer, sorry for the delay in getting back to you. Right to know requests are typically received and logged into the Commissioner's office and then sent to the appropriate business area for response. To this point we can find no record of this request. I continue to search and I will let you know whether I am able to find the request and any response. If you have any additional information that might help - such as a copy of the April 21, 2010 please send it to me. My fax number is (603) 271-5590. Thanks.

Frank D. Nachman, Esq.
Chief Legal Counsel
NH Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
(603) 271-2892

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<datasearch@earthlink
.net>

10/24/2010 05:56 PM Please respond to
<datasearch@earthlink.net>

To <fnachman@dhhs.state.nh.us>

cc

Subject RE: Public Records Request - New Hampshire

Mr. Nachman?

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]

Sent: Friday, October 15, 2010 12:41 PM

To: 'fnachman@dhhs.state.nh.us'

Subject: Re: Public Records Request - New Hampshire

Dear Mr. Nachman,

I submitted a public records request to Kathleen A. Dunn. (See below)
Ms. Dunn indicates that no records were found responsive to my request.

I believe the request by the Senator was sent to every state in the
country. I believe the Senator's request was sent to Commissioner Nicholas
Toumpas on April 21, 2010.

Can you assist?

Sincerely,

Ken Kramer

-----Original Message-----

From: KDunn@dhhs.state.nh.us [mailto:KDunn@dhhs.state.nh.us]

Sent: Friday, October 15, 2010 11:54 AM

To: datasearch@earthlink.net

Subject: RE: Public Records Request - New Hampshire

Mr. Kramer,

The Department has reviewed the Commissioner's mail log as well as our federal mail log. There is no such letter found. Mr. Nachman's address is: fnachman@dhhs.state.nh.us.

Sincerely,

Katie Dunn

Kathleen A. Dunn, MPH
Director, Office of Medicaid Business and Policy
129 Pleasant Street
Concord, NH 03301
kdunn@dhhs.state.nh.us
(603) 271-5258

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privileged and confidential and is intended for the exclusive use of the individual(s) to whom it is addressed. If you received this message in error, please contact the sender immediately and delete this electronic message and any attachments from your system. Thank you for your cooperation.

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]

Sent: Friday, October 15, 2010 10:38 AM

To: 'KDunn@dhhs.state.nh.us'

Subject: RE: Public Records Request - New Hampshire

Dear Ms. Dunn,

Perhaps this may help.

I believe the Senator's request was sent to Commissioner Nicholas Toumpas on April 21, 2010.

Please provide the e-mail address for Mr. Nachman.

Sincerely,

Ken Kramer

-----Original Message-----

From: KDunn@dhhs.state.nh.us [mailto:KDunn@dhhs.state.nh.us]

Sent: Friday, October 15, 2010 10:16 AM

To: datasearch@earthlink.net

Subject: RE: Public Records Request - New Hampshire

Dear Mr. Kramer,

I am writing to acknowledge receipt of your request for a copy of the records sent to U.S. Senator Grassley regarding his request for the top ten Medicaid prescribers of Abilify, Geodon, Risperdal, Seroquel, Zyprexa, Xanax, etc for 2008 and 2009. In addition, you requested copies of the correspondence to and from Senator Grassley. Since receipt of your request we have conducted an extensive search including the Commissioner's Office mail log and several other likely recipients of such a request and we are unable to find any record of a right to know request from Senator Grassley. Accordingly, as required by NH RSA 91-A we are denying your request because we have no recording as described. Should you require additional assistance please contact Mr. Frank Nachman, Chief Legal Counsel, NH DHHS at 603-271-2892.

Sincerely,

Katie Dunn

Kathleen A. Dunn, MPH
Director, Office of Medicaid Business and Policy
129 Pleasant Street
Concord, NH 03301
kdunn@dhhs.state.nh.us
(603) 271-5258

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privileged and confidential and is intended for the exclusive use of the individual(s) to whom it is addressed. If you received this message in error, please contact the sender immediately and delete this electronic message and any attachments from your system. Thank you for your cooperation.

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Thursday, October 14, 2010 7:33 PM
To: 'KDunn@DHHS.state.nh.us'
Subject: RE: Public Records Request - New Hampshire

Ms. Dunn?

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Thursday, October 07, 2010 7:55 PM
To: 'KDunn@DHHS.state.nh.us'
Subject: Public Records Request - New Hampshire

Dear Ms. Dunn,

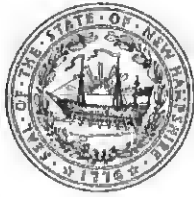
This is a request for public records.

Please provide a copy of the records sent to U.S. Senator Grassley regarding his request for the top ten Medicaid prescribers of Abilify, Geodon, Risperdal, Seroquel, Zyprexa, Xanax, etc for 2008 and 2009. In addition please provide the correspondence to and from Senator Grassley.

Please provide an electronic copy of these public records via e-mail.

Sincerely,

Ken Kramer



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF OPERATIONS SUPPORT
BUREAU OF LEGAL SERVICES

Nicholas A. Toumpas
Commissioner

Mary P. Castelli
Senior Division Director

129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-9226 1-800-852-3345 Ext. 9226
FAX: 603-271-5590 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

February 24, 2012

The Honorable Senator Charles E. Grassley
United States Senate
Committee on the Judiciary
Washington, DC 20510-6275

Dear Senator Grassley,

On behalf of Commissioner Toumpas, I am responding to your correspondence of January 24, 2012 in which you request certain prescription information. Specifically, you have requested, relative to the NH Medicaid Program, information regarding the top ten prescribers of several antipsychotic and pain management drugs. In addition, you ask a number of questions regarding the monitoring of such prescribing habits.

First, I have attached an Excel spreadsheet containing the information you have requested relative to the top ten Medicaid prescribers for the drugs you listed for 2010 and 2011. You will see that the identities of the prescribers have not been included in the spreadsheet. Instead, the prescribers have been de-identified and are listed by a unique number displayed in a column labeled "Prescriber De-ID." This is because New Hampshire law prohibits the disclosure of prescriber-identifiable data. (See, NH RSA 318:47-f).

In addition to the information requested, I have provided answers numbered in accordance with your questions:

1. New Hampshire's Surveillance and Utilization Review System Unit (SURS) monitors Medicaid prescription drug use and prescribing habits through its pharmacy Lock-in Program in accordance with NH Code of Administrative Rule, Part 570.07, a copy of which is attached.
2. New Hampshire Medicaid checks all prescribers for licensure and license restriction with the state medical board and the National Practitioner Data Bank.
3. Yes, some of the prescribers listed on the attached spreadsheet have been referred to New Hampshire's state medical board.
4. New Hampshire has no system to identify and monitor excessive prescription writing, except for the Medicaid Pharmacy Lock-in Program described above. The reason is that the New Hampshire Legislature has not passed a law implementing such a system.
5. New Hampshire's SURS Unit has received training and guidance from CMS to help identify potential issues with prescription drugs.
6. New Hampshire does not maintain a database of all prescribed controlled substances.
7. New Hampshire Medicaid does have point-of-sale restriction related to maximum units, prior authorization, therapeutic duplication, and early refill.

8. New Hampshire has not verified whether any of the top ten prescribers have been identified in the federal Drug Utilization Review.
9. New Hampshire does have in place programs to educate providers about antipsychotic drugs, however these are not specifically targeted to prescribing to children and adolescents.

I hope this information satisfies your request. If you have any further questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Frank D. Nachman', with a long horizontal flourish extending to the right.

Frank D. Nachman
Chief Legal Counsel
(603) 271-9228

Enc.

Cc: Nicholas A. Toumpas, Commissioner

Calendar Year 2010

ABILIFY

Prescriber De-ID	Nbr Claims	Total Paid
5587	275	\$ 133,494
5110	259	\$ 131,005
3030	250	\$ 60,937
6006	201	\$ 91,898
9558	175	\$ 95,875
5402	166	\$ 73,189
9115	154	\$ 72,856
2014	153	\$ 73,461
8557	139	\$ 43,366
9360	130	\$ 48,414

GEODON

Prescriber De-ID	Nbr Claims	Total Paid
3030	116	\$ 13,217
7153	82	\$ 15,577
3131	79	\$ 28,450
5036	78	\$ 31,363
3551	77	\$ 30,239
9558	75	\$ 42,241
7586	75	\$ 30,956
8557	68	\$ 8,777
4547	66	\$ 19,451
9115	66	\$ 27,019

OXYCONTIN

Prescriber De-ID	Nbr Claims	Total Paid
9542	139	\$ 51,832
4804	74	\$ 41,254
9204	72	\$ 33,168
8568	59	\$ 43,509
7778	59	\$ 34,752
4682	53	\$ 26,210
2292	53	\$ 23,474
9215	50	\$ 22,369
3426	49	\$ 20,610
1135	43	\$ 23,410

RISPERDAL

Prescriber De-ID	Nbr Claims	Total Paid
2525	77	\$ 55,600
4604	61	\$ 47,602
2938	60	\$ 56,768
5110	55	\$ 52,547
8784	54	\$ 27,877
967	52	\$ 38,841
9558	38	\$ 27,383
8376	30	\$ 20,052
3132	26	\$ 13,441
4411	26	\$ 21,161

ROXICODONE

Prescriber De-ID	Nbr Claims	Total Paid
7102	14	\$ 4,631
8175	3	\$ 652
7865	3	\$ 628
614	1	\$ 62
7524	1	\$ 93
9542	1	\$ 53
2491	1	\$ 59
5652	1	\$ 235
7703	1	\$ 30
2738	1	\$ 8

SEROQUEL

Prescriber De-ID	Nbr Claims	Total Paid
3030	556	\$ 46,704
5587	555	\$ 123,305
9831	412	\$ 85,340
3551	396	\$ 132,653
2938	391	\$ 126,856
5110	339	\$ 81,361
9558	268	\$ 125,778
5402	264	\$ 82,816
9090	249	\$ 70,916
7153	227	\$ 32,410

XANAX

Prescriber De-ID	Nbr Claims	Total Paid
8322	13	\$ 2,565
1497	11	\$ 3,338
2014	11	\$ 1,579
9782	10	\$ 911

4315	10	\$ 1,804
2058	2	\$ 204
4554	1	\$ 195
7215	1	\$ 195
1890	1	\$ 195
No tenth Prescriber in 2010		

ZYPREXA

Prescriber De-ID	Nbr Claims	Total Paid
3551	170	\$ 105,982
9558	139	\$ 95,361
7270	116	\$ 79,966
2508	111	\$ 53,289
9090	98	\$ 50,042
2938	97	\$ 82,583
2525	96	\$ 60,289
5110	88	\$ 69,721
5582	84	\$ 53,074
4505	83	\$ 51,672

He-W 570.07 Pharmacy Lock-In Program.

(a) DHHS shall conduct recipient utilization reviews in accordance with He-W 520.04 and in consideration the recommendations of the DUR board pursuant to He-C 5010.07(j) to determine if prescribed drugs are being utilized at a frequency or amount that results in a demonstrated pattern of excessive or inappropriate utilization of services.

(b) If it is determined from the utilization review in He-W 570.07(a), that the recipient utilized excessive inappropriate pharmaceutical services, the recipient shall be enrolled into the pharmacy lock-in program pursuant to CFR 431.54(e), for a 12-month period.

(c) Recipients shall be notified by DHHS, in writing of their enrollment into the pharmacy lock-in program, least 30 days prior to the effective date of their enrollment.

(d) The written notification to the recipient shall include:

- (1) The date of their enrollment into the pharmacy lock-in program;
- (2) Instructions for the recipient to choose a primary pharmacy, within 21 days of the date of the written notification, as their only source for obtaining all prescribed drugs;
- (3) Notification that if the recipient fails to choose a primary pharmacy in accordance with (2) above, or the pharmacy is unwilling or unable to be the primary pharmacy, DHHS shall select a primary pharmacy for them based on their previous pharmacy use and geographical location; and
- (4) The recipient's rights to appeal pharmacy lock-in and request a fair hearing, pursuant to 42 CFR 431.54 (e), and in accordance with He-C 204, if they disagree with DHHS' decision.

(e) If the primary pharmacy is selected by the recipient pursuant to He-W 570.07(d)(2), DHHS shall notify primary pharmacy in writing of its selection at least 7 working days prior to the effective date of the recipient enrollment into the pharmacy lock-in program.

(f) If the primary pharmacy is selected by DHHS pursuant to He-W 570.07(d)(3), DHHS shall notify recipient and the primary pharmacy in writing of its selection at least 7 working days prior to the effective date of recipient's enrollment into the pharmacy lock-in program.

(g) Recipients enrolled in the pharmacy lock-in program shall have the following service restrictions:

- (1) Recipients shall be identified through a claims transaction from the PBM to the pharmacy as having a service restriction that states "Medication Control. Recipient Restricted to Primary Pharmacy";
- (2) Except as set forth in He-W 570.07(g)(3), only the recipient's primary pharmacy may receive payment from DHHS for drugs dispensed to a recipient with the restriction set forth in He-W 570.07(g)(1); and
- (3) If a pharmacy other than the primary pharmacy determines that a recipient is unable to access his/her primary pharmacy, the non-primary pharmacy may contact the PBM for authorization to dispense a 72-hour emergency supply of a drug to a restricted recipient.

(h) Recipients enrolled in the pharmacy lock-in program may change their primary pharmacy only upon:

- (1) The request of the primary pharmacy;
- (2) The recipient moving out of the primary pharmacy area; or
- (3) The primary pharmacy disenrolling from the medicaid program.

(i) If DHHS implements a change pursuant to He-W 570.07(h), DHHS shall notify the new primary pharmacy and the recipient, in writing, of the effective date of the change.

(j) Eligible recipients who become ineligible for medicaid services during their pharmacy lock-in enrollment period, shall be reinstated into the pharmacy lock-in program for the balance of the enrollment period, lasting until originally calculated ending date, should they again become eligible for medicaid services.

(k) Prior to the end of the 12 month enrollment period, DHHS shall conduct a review of the recipient's prior months of utilization of pharmaceutical services pursuant to He-W 570.07(a) and in consideration of recommendations of the DUR board pursuant to He-C 5010.07(j), to determine whether the recipient has continued utilize excessive or inappropriate pharmaceutical services.

(l) If the utilization review in (k) above shows a demonstrated pattern of total improvement in the recipient pattern of pharmacy utilization, the recipient shall be released from the lock-in.

(m) If the utilization review in (k) above shows a demonstrated pattern of some improvement in the recipient pattern of pharmacy utilization, the recipient shall continue to be enrolled in the lock-in program for an additional months.

(n) If the utilization review in (k) above shows a demonstrated pattern of no improvement in the recipient pattern of pharmacy utilization, the recipient shall continue to be enrolled in the lock-in program for an additional months.

Source. (See Revision Note at chapter heading He-W 500); ss by #5742, eff 12-1-93, EXPIRED: 12-1-99

New. #7392, eff 10-28-00; ss by #7680, eff 4-20-02; ss by #7712, INTERIM, eff 6-22-02, EXPIRED: 12-19-02

New. #7805, eff 12-21-02; ss by #8636, eff 5-26-06; ss by #9586, eff 11-4-09